

City of Alexandria, Virginia

MEMORANDUM

 23
12-10-02

DATE: DECEMBER 6, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: RESOLUTION TO AMEND THE CITY OF ALEXANDRIA RETIREMENT INCOME PLAN FOR FIREFIGHTERS AND POLICE OFFICERS

ISSUE: Consideration of proposed revisions to the Retirement Income Plan for Firefighters and Police Officers.

RECOMMENDATION: That City Council adopt the attached resolution (Attachment 1) which:

- (1) amends the City of Alexandria Retirement Income Plan for Firefighters and Police Officers to create a Retirement Board consisting of four City representatives and four participant representatives (two police officers and two firefighters) to administer the plan and oversee the management of Plan assets;
- (2) clarifies the definition of disability under the Plan; and
- (3) incorporates the technical changes required by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), as required by the Internal Revenue Service Code.

DISCUSSION: This resolution provides for the amendment of the City of Alexandria Retirement Income Plan for Firefighters and Police Officers to create a Retirement Board consisting of four City representatives and four participant representatives, to clarify the definition of disability and to incorporate the provisions of EGTRRA. The EGTRRA amendments are all technical in nature, many have no applicability to members of the Alexandria Retirement Income Plan for Firefighters and Police Officers, and those that do are of benefit to those members.

Passage of an ordinance is necessary to implement the provisions establishing the Retirement Board, and the necessary ordinance is included for consideration on Council's December 10 docket. We expect the Retirement Board to be created in early 2003, following the election of

the four employee members by the plan participants. As of June 30, 2002, there were 452 active police and fire participants in the Plan. The creation of the Retirement Board will enable employees in the Plan to help administer the Plan and oversee the management of Plan assets.

The City is required to give participants 60 days advance notice before making any “material” change to the Plan. All of these Plan changes are summarized in the attached Notice of Proposed Amendments which was sent to each Plan participant (Attachment 3). The 60-day notice period was held from September 16, 2002, through November 16, 2002, as required by the Plan. Meetings were held with participants on September 25, September 30, October 1, October 8, October 9, and October 10 at both City Hall and the Lee Center. Approximately 50 participants attended these meetings and asked questions about the Plan. During the course of the meetings held with Plan participants and subsequently, there has been no opposition to the proposed Plan amendments.

Staff has discussed the proposed changes with representatives of the affected employee and retiree groups. On August 29, City Council’s Pension Committee (Mayor Donley and Councilman Euille) met with staff and employee representatives to discuss the proposed plan changes, and the employee representatives are in favor of the Plan changes.

ATTACHMENTS:

Attachment 1. Resolution

Attachment 2. Proposed Amendments to the City of Alexandria Retirement Income Plan for Firefighters and Police Officers

Attachment 3. Notice to Proposed Amendments to the City of Alexandria Retirement Income Plan for Firefighters and Police Officers

STAFF:

Henry Howard Jr., Director, Personnel Services

Myla Riggs, Benefits Division Chief, Personnel Services

Dan Neckel, Director, Finance Department

RESOLUTION NO. _____

WHEREAS, the City of Alexandria maintains the **City of Alexandria Retirement Income Plan for Firefighters and Police Officers** (the "Plan"); and

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the "First Amendment to the City of Alexandria Retirement Income Plan for Firefighters and Police Officers" (the "Plan Amendment") attached hereto; and

WHEREAS, the Plan, as amended, is intended to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable;

NOW, THEREFORE, BE IT RESOLVED THAT the Alexandria City Council does hereby recognize, adopt, approve and restate the Plan to incorporate the Plan Amendment attached hereto and incorporated fully herein by reference; and

BE IT FURTHER RESOLVED THAT the City Manager be, and he hereby is, authorized and directed to make on behalf of the City of Alexandria any other changes to the Plan as may be requested by the Internal Revenue Service, or, based on the advice of counsel, as may be necessary or desirable for the Plan to meet or continue to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable; and

BE IT FURTHER RESOLVED THAT this Resolution shall be effective immediately; provided, however, that the amendments hereby approved shall be effective as stated in the Plan Amendment.

ADOPTED: _____

Kerry J. Donley, Mayor

Attest:

Beverly I. Jett, CMC, City Clerk

**FIRST AMENDMENT TO
THE CITY OF ALEXANDRIA RETIREMENT INCOME PLAN FOR FIREFIGHTERS
AND POLICE OFFICERS**

Pursuant to the powers of amendment reserved under Section 15.1 of the City of Alexandria Retirement Income Plan for Firefighters and Police Officers (the "Plan"), as amended and restated effective as of December 31, 2001, said Plan shall be and the same is hereby further amended by the City of Alexandria (the "Employer") effective as of January 1, 2003, or such earlier dates as may be specified herein, as follows:

FIRST CHANGE

Section 1.3 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

- 1.3 ADMINISTRATOR. The term Administrator means the Board or the Person or Persons designated by the Board to serve as Administrator in accordance with Section 12.2.

SECOND CHANGE

The following new Section 1.5A shall be inserted as follows:

- 1.5A BOARD. The Retirement Income Board that is established under Section 13.1 to administer the Plan and to manage the assets of the Plan.

THIRD CHANGE

Section 1.8 shall be deleted in its entirety and the following shall be substituted in lieu thereof effective as of December 31, 2001:

- 1.8 DISABILITY. The term Disability means a Participant who has been determined to be disabled under the Firefighters and Police Officers Disability Income Plan.

FOURTH CHANGE

The following new Section 1.16A and B shall be inserted as follows:

- 1.16A FUNDING AGENT. The term Funding Agent refers to the Insurance Company or the trustee or custodian appointed to hold assets of the Plan.

1.16B FUNDING VEHICLE. The term Funding Vehicle refers to an Annuity Contract or a trust or custodial account created to hold assets of the Plan.

FIFTH CHANGE

Section 1.19 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

1.19 INVESTMENT FUNDS. The term Investment Funds refers to the investment media from among which each Participant may direct the investment of his Participant Account. Such term includes one or more Variable Annuity Contracts, one or more pooled separate accounts maintained by an Insurance Company under an Annuity Contract, and shares of redeemable capital stock of one or more regulated investment companies, as defined in Section 851(a) of the Internal Revenue Code.

SIXTH CHANGE

Section 1.24 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

1.24 PARTICIPANT. The term Participant means any Employee of the Employer, and any former Employee who has an undistributed Account under the Plan. The term Participant shall include an Active Participant and an Inactive Participant. In addition, where appropriate according to the context of the Plan, the term Participant shall also include a Beneficiary or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee.

SEVENTH CHANGE

The following new Section 1.39 shall be inserted as follows:

1.39 VOTING PARTICIPANT. The term Voting Participant means a Participant whose Participant Account has been credited with Employer Contributions that are attributable to such Participant's service as a covered Firefighter or Police Officer. The term does not include a Participant who may be a current or former Firefighter or Police Officer, but whose Participant Account has not been credited with Employer Contributions that are attributable to such Participant's service as a covered Firefighter or Police Officer (e.g. a Participant whose Participant's Account is attributable solely to his status as a Beneficiary or an alternate payee under a domestic relations order).

EIGHTH CHANGE

Section 5.3, 5.4 and 5.5 shall be deleted in their entirety and the following shall be substituted in lieu

thereof:

5.3 PARTICIPANT DIRECTED INVESTMENT OF ACCOUNTS.

- (a) Subject to such limitations as may from time to time be required by law, imposed by the Board or contained elsewhere in the Plan, and subject to such operating rules and procedures as may be imposed from time to time by the Board (or the Funding Agent), each Participant (including for this purpose former Participants with a deferred vested benefit, Beneficiaries and/or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee) shall have the right to direct the investment of his Participant Account in accordance with the following:
- (b) The Board shall designate the Investment Funds from among which each Participant may direct the investment of his Participant Account. The Board may, in its absolute discretion change, modify or limit such Investment Funds and may establish uniform rules and procedures to be followed with respect to the investment of Participants' Accounts in such Investment Funds.

The Board shall determine the manner, period, and frequency of investment elections (e.g., daily, weekly, or monthly). Different terms and conditions may be specified for different Investment Funds (e.g., monthly elections for one Investment Fund and daily elections for another Investment Fund). Any term or condition imposed by the Board may apply to an entire Participant's Account or may be applied separately to different subaccounts, different Investment Funds or to different types of contributions (e.g., future contributions versus the current balance of a Participant's Account). Except as the Board shall otherwise determine, any initial or subsequent investment designation shall be in writing, on a form supplied by and filed with the Board (or the Funding Agent), and shall be effective on such date as may be specified by the Board (or the Funding Agent). The Board may provide for telephone or other electronic investment designations to the extent that such facilities are made available by the Funding Agent, and may establish (and thereafter change) a limit on the number of designations that may be made by any Participant during a specified period.

All contributions and other amounts added to a Participant's Account (except for investment earnings) shall be allocated among the separate Investment Funds in accordance with the then effective investment designation. Except as the Board shall otherwise determine, any distributions shall be taken proportionately from each separate Investment Fund in which the Participant's Account is invested at the time of the distribution. As of the effective date of any new investment designation, the entire balance of the Participant's Account at that date shall be reallocated among the designated investment media according to the percentages specified in the investment

designations (unless the Board permits, and the Participant has designated, different allocations as between existing balances and future contributions), but no reallocations of the Participant's Account are to be made merely to adjust for disproportionate investment changes among such funds (other than in response to a subsequent investment designation filed with respect to the Participant's Account).

In the event the Board (or the Funding Agent) receives an initial or revised investment designation which it deems to be incomplete, unclear, not in accordance with procedures established pursuant to this Section or otherwise improper, the Participant's investment designation then in effect shall remain in effect (or, in the case of a deficiency in an initial designation, the Participant shall be deemed to have filed no designation) until a complete, clear investment designation has been filed that is in accord with the rules and procedures established by the Board (or the Funding Agent) and has become effective.

It is intended that each Participant be required to direct the investment of his Participant's Account to the extent set forth in this Section. In the event that the Board (or the Funding Agent) possesses at any time instructions as to the investment of less than all of a Participant's Account, the Participant shall be deemed to have designated that the non-directed portion of his Account be invested in the Guaranteed Long Term Account (or if the Guaranteed Long Term Account is not available, then in the separate Investment Fund which most closely resembles a money market or stable asset fund). To the extent that the Board finds it to be administratively appropriate to hold a portion of the assets of the Plan out of the operation of this Section, or to the extent that the operation of this Section is suspended or terminated with respect to any portion of the assets of the Plan as aforesaid, then the Board shall direct the Funding Agent with respect to the investment.

The Board may determine at any time to vary the rules provided above to accord with the requirements of any Investment Fund, for ease in administration, or for any other reason. In such event, the Board shall promptly notify Participants of any changes which affect the manner in which Participant Accounts are invested.

Neither the Board, the Administrator, the Employer, the Funding Agent nor any other person who may be deemed a fiduciary hereunder shall have any responsibility to determine the appropriateness of any individual Participant's investment direction.

- 5.4 ACCOUNT STATEMENTS. Following the close of each calendar quarter (or more frequently, as directed by the Board), the Funding Agent shall furnish the Board, the Administrator and each Participant with a written report of the value of each Investment Fund in which the Participant's Account is invested.

NINTH CHANGE

The second paragraph of Section 6.3 shall be deleted in its entirety and the following shall be substituted in lieu thereof

Notwithstanding the foregoing paragraph, if the value of the Participant's Account available for the purchase of a retirement annuity is less than five thousand dollars (\$5,000), the distribution shall be in the form of cash.

TENTH CHANGE

Article XII shall be deleted in its entirety and the following shall be substituted in lieu thereof:

ARTICLE XII

ADMINISTRATION OF THE PLAN AND MANAGEMENT OF PLAN ASSETS

- 12.1 **ADMINISTRATION OF THE PLAN.** The Plan shall be operated and administered on behalf of the Employer by the Administrator, which shall have the powers and duties set forth in Section 12.4.
- 12.2 **MANAGEMENT OF PLAN ASSETS.** The assets of the Plan shall be managed by the Board, which shall have the additional powers and duties set forth in Section 12.5. The Board may also make recommendations to the City Manager or the City Council concerning modifications to or clarifications of the Plan or the Firefighters and Police Officers Disability Income Plan.
- 12.3 **ADMINISTRATOR.** In the absence of any designation to the contrary by the Board, the Board shall serve as the Administrator.

The Board may designate and appoint one or more Persons [who are employed by the Employer] to act as Administrator. Except to the extent that the Board has retained any power or authority, or allocated duties and responsibilities to another fiduciary, the Person or Persons designated as the Administrator by the Board shall have full power and authority to administer and operate the Plan in accordance with its terms and in particular the authority contained in Section 12.4, and, in acting pursuant thereto, shall have full power and authority to deal with all persons in any matter directly connected with the operation and administration of the Plan.

If more than one Person is designated as the Administrator by the Board, the committee thus formed shall be known as the Administrative Committee and all references in the Plan to the Administrator shall be deemed to apply to the Administrative Committee.

The Administrator (or each member of the Administrative Committee) shall signify in

writing his acceptance of his responsibility as Administrator.

Any Person or Persons designated by the Board as Administrator (or a member of the Administrative Committee) shall:

have the right to resign at any time by giving notice in writing, mailed or delivered to the Board;

be deemed to have resigned as an Administrator (or a member of the Administrative Committee) upon his termination of employment with the City; and

shall be subject to removal by the Board at any time, with or without cause.

Upon the death, resignation or removal of an Administrator, the Board may appoint a successor. The appointment of a successor shall be made by the Board in writing, and the successor shall have all of the rights and privileges and all of the duties and obligations of his predecessor.

If the Board has created an Administrative Committee to serve as the Administrator, then the Board shall designate a Chairman and Secretary from among the members of the Administrative Committee. The Administrative Committee may adopt reasonable rules for the conduct of its business. A majority of the members then serving as members of the Administrative Committee shall constitute a quorum for the transaction of business. All action taken by the Administrative Committee shall be by vote of a majority of those present at such meeting and entitled to vote. Actions may be taken without a meeting upon written consent signed by at least a majority of the members of the Administrative Committee. All documents, instruments, orders, requests, directions, instructions and other papers shall be executed on behalf of the Administrative Committee by either its Chairman or Secretary, or by any member or agent of the Administrative Committee duly authorized to act on the Committee's behalf.

In carrying out its duties the Administrative Committee may, from time to time, employ agents and may delegate to them ministerial and limited discretionary duties as it sees fit.

The Administrative Committee (or the Person) appointed by the Board as Administrator shall provide the Board, within fifteen (15) days after the close of each month, with a written summary of all actions taken during the month.

- 12.4 DUTIES AND RESPONSIBILITY OF ADMINISTRATOR. The Administrator shall perform all such duties as are necessary to administer and operate the Plan in accordance with the terms thereof.

Except as the Employer, acting through the City Council, shall otherwise expressly

determine, the Administrator shall have full authority to act for the Employer before all persons in any matter directly pertaining to the administration and operation of the Plan, including, without limitation, the power:

To administer the Plan in accordance with the provisions of the Plan and applicable law.

To make and to change from time to time and to enforce such rules and regulations, consistent with the provisions of this Plan, as may be necessary or desirable for the carrying out of its duties, and for the efficient administration of the Plan.

Finally and conclusively to determine, according to the provisions set forth in this Plan, the eligibility of a Participant under this Plan and, if eligible, the Participant's rights hereunder.

To exercise its sole discretionary right and authority to interpret and construe terms of this Plan and any rules and regulations that the Administrator might make.

To retain such agents, actuaries, consultants, accountants, attorneys, and service providers as may be necessary for the efficient administration of the Plan.

To allocate and delegate responsibilities among members of the Board or Administrative Committee, and to designate persons other than the Administrator to carry out administrative responsibilities under the Plan.

To compromise, settle, or release claims or demands in favor of or against the Plan or the Administrator on such terms as the Administrator may deem reasonable and prudent.

To recommend to the City Manager changes to the Plan that are necessary or desirable to maintain the qualification of the Plan under Section 401(a) of the Internal Revenue Code.

To request determination letters from the Secretary of the Treasury that the Plan meets the requirements for qualification under Section 401 of the Internal Revenue Code and to take the necessary steps to notify the appropriate interested parties whenever an application is made to the Secretary of the Treasury for a determination letter in accordance with section 7476 of the Internal Revenue Code.

To do all acts necessary to implement any action or decision of the Board with respect to the management of the assets of the Plan.

To do all acts, whether or not expressly authorized herein, which the Administrator

deems necessary to accomplish the general purposes of this Plan, provided, however, that the Administrator shall have no authority to take any action with respect to the management of the assets of the Plan, other than those actions which are necessary to implement any action or decision of the Board.

Notwithstanding anything herein to the contrary, the Administrator shall not have the power to amend or terminate the Plan, to determine Employer contributions, or to affect the employer-Employee relationship between the Employer and any Employee, all of which powers are reserved to the Employer.

12.5 **ADDITIONAL DUTIES AND RESPONSIBILITY OF THE BOARD.** The Board shall serve as the fiduciary of the Plan in connection with the management of the Plan's assets.

Except as the Employer, acting through the City Council, shall otherwise expressly determine, the Board shall have full authority to act for the Employer before all persons in any matter directly pertaining to the management of the assets of the Plan, including, without limitation, the power:

- To determine, select, monitor, review and alter as appropriate the Investment Funds from among which each Participant may direct the investment of his Participant Account in accordance with the provisions of Article V, and to take all action necessary to perform such function.

- To establish reasonable rules and procedures to be followed with respect to the investment of Participants' Accounts, including the use of paperless notices, elections, consents, authorizations, instructions, directions, designations, requests or communications.

- To determine the manner, period, and frequency of investment elections by Participants under Article V.

- If deemed appropriate by the Board, to suspend or terminate the right of Participants to direct the investment of all or any portion of their Account (and in such event to direct the Funding Agent with respect to the investment of such Participant Accounts).

- To add or terminate any Annuity Contract as an Investment Fund or funding vehicle under the Plan.

- To establish a trust or custodial account as a Funding Vehicle (in addition to, or in lieu of an Annuity Contract).

- To provide investment education (but not investment advice) to Plan Participants through independent service providers acting solely in the interests of Plan

Participants.

To appoint and retain any trustees, custodians, investment managers, investment advisors, investment planners, record-keepers, counsel and other vendors for the Plan as it deems necessary and appropriate for the management and operation of the assets of the Plan.

To approve all standard form benefit statements, and all other standard or special written communications from the Plan to Participants with respect to their Accounts (or the investment thereof), including but not limited to information and communications furnished to Participants by the Employer that directly relates to or describes the investment of assets of the Plan, or provides information to Participants respecting the value of their Accounts.

To establish reasonable rules and procedures to be followed with respect to the nomination (and removal) of Participant Representatives.

To consult with the Employer, Administrator or City Manager respecting the terms of the Plan and to make recommendations concerning modifications to or clarifications of the Plan or the Firefighters and Police Officers Disability Income Plan (including making recommendations to the City Council following consultation with the City Manager); provided, however, that the Board shall have no discretionary authority acting itself to modify or amend, in any respect, any term or provision of such Plans, which authority resides exclusively with the City Council.

To do all acts, whether or not expressly authorized herein, which the Board deems necessary or appropriate in connection with the management of the assets of the Plan.

Notwithstanding anything herein to the contrary, the Board shall not have the power to amend or terminate the Plan, to determine Employer contributions, or to affect the employer-Employee relationship between the Employer and any Employee, all of which powers are reserved to the Employer.

12.6 RECORDS AND REPORTS.

The Administrator and the Board shall maintain such records, and compile such data, as is necessary for the proper administration and operation of the Plan and the proper management of the assets of the Plan. The Administrator and the Board shall maintain adequate records of their actions and proceedings in administering this Plan and shall file all reports and take all other actions necessary or appropriate in order to comply with applicable law.

An annual audit of the Plan shall be made at the end of each fiscal year of the Plan by a competent, impartial independent certified public accountant selected by the

Board.

The Board shall furnish the City Manager or his designee a copy of all monthly financial or investment reports, the annual audit of the Plan, and any financial reports or documents provided by any service provider to the Plan .

The Employer shall promptly furnish all necessary information to the Administrator and the Board to permit them to perform their respective duties under the Plan. The Administrator and the Board shall be entitled to rely upon the accuracy and completeness of all information furnished to them by the Employer, unless they know or should have known that such information is erroneous.

- 12.7 EXPENSES OF ADMINISTRATOR AND BOARD. Any expenses incurred by the Administrator or the Board in connection with the administration of the Plan shall be paid by the Employer, including but not limited to those associated with the retention of attorneys, accountants, an actuaries, or other service providers; provided, however, that any fees and expenses of the Administrator or the Board that are payable by the Employer shall be conditioned on and subject to appropriations by the City Council.
- 12.8 PAPERLESS COMMUNICATIONS. Notwithstanding anything contained herein to the contrary, the Administrator or the Board from time to time may establish uniform procedures whereby with respect to any or all instances herein where a writing is required, including but not limited to any required written notice, election, consent, authorization, instruction, direction, designation, request or claim, communication may be made by any other means designated by the Administrator or the Board, including by paperless communication, and such alternative communication shall be deemed to constitute a writing to the extent permitted by applicable law, provided that such alternative communication is carried out in accordance with such procedures in effect at such time.

ELEVENTH CHANGE

Articles XIII through XVII shall be redesignated as Articles XIV through XVIII respectively, and the following new Article XIII shall be inserted:

ARTICLE XIII RETIREMENT INCOME BOARD

13.1 RETIREMENT INCOME BOARD.

The Retirement Income Board shall consist of eight members who are nominated by the City Manager and Voting Participants in accordance with this Article and appointed by the City Council.

Four of the members of the Board shall be nominated by the City Manager pursuant to Section 13.2 (the "Employer Representatives"), and four of the members of the Board shall be nominated by the Voting Participants pursuant to Section 13.3 (the "Participant Representatives"). In the event the City Council does not appoint an Employer Representative or Participant Representative that has been nominated in accordance with this Article, the City Manager or Voting Participants, as the case may be, shall select and present another nominee in accordance with the provisions of this Article.

In addition to the four Employer Representatives and four Participant Representatives, there shall be two alternate Participant Representatives and one alternate Employer Representative appointed by the City Council. The two alternates Participant Representatives shall be nominated in the same manner as the Participant Representatives (with one of the Participant alternates nominated by Voting Participants who are or were Firefighters, and the other Participant alternate nominated by Voting Participants who are or were Police Officers). The alternate Employer Representative shall be nominated by the City Manager. The designated alternates may attend meetings of the Board, but unless acting in place of an absent member of the Board in accordance with Section 13.4, shall not be entitled to participate in any meeting of the Board or vote on any matter presented to the Board for consideration.

Each member of the Board and each alternate shall signify in writing his acceptance of his appointment as a member or alternate of the Board. No person shall act as a member of the Board or as an alternate until he has accepted and acknowledged his appointment.

13.2 EMPLOYER REPRESENTATIVES.

The City Manager shall nominate the four Employer Representatives for appointment to the Board. The Employer Representatives appointed by the City Council shall serve as members of the Board until removed or until their death or resignation.

Each Employer Representative shall have the right to resign as a member of the Board at any time by giving notice in writing, mailed or delivered to the City Manager and the remaining members of the Board. An Employer Representative who was an employee of the Employer at the time of his appointment shall be deemed to have resigned from the Board upon his termination of employment with the Employer. The City Manager at any time may, in his discretion, request that the City Council remove any Employer Representative with or without cause. Upon the death, resignation or removal of an Employer Representative, the City Manager shall nominate a successor. The appointment of a successor shall be made by the City Council, and the successor shall have all of the rights and privileges and all of the

duties and obligations of his predecessor.

13.3 PARTICIPANT REPRESENTATIVES.

The Voting Participants shall nominate each Participant Representative (by secret ballot).

Two out of the four Participant Representatives shall be Voting Participants who are currently or previously employed by the Employer as Firefighters, and shall be nominated for appointment to the Board based on the vote of all Voting Participants who are or were Firefighters. The remaining two Participant Representatives shall be Voting Participants who are currently or previously employed by the Employer as Police Officers, and shall be nominated for appointment to the Board based on the vote of all Voting Participants who are or were Police Officers.

Each Participant Representative, and alternate, shall serve a three-year term (or until their successor is duly appointed and has accepted his position on the Board). Each Participant Representative may be re-nominated and re-appointed for any number of additional three-year terms.

The City Manager (or his designee), in consultation with employee organizations in the Police and Fire Departments, shall conduct the initial nomination of Participant Representatives, and thereafter such nominations shall be conducted by the Board. In any nomination proceeding conducted by the Board, no Participant Representative who is seeking to be nominated for re-appointment to the Board shall participate in conduct of the nomination proceedings by the Board.

The City Manager or his designee (for the initial nomination) or the Board (for all subsequent nominations) shall establish reasonable rules and procedures to be followed with respect to the conduct of the nomination of Participant Representatives (consistent with the provisions of Section 13.3(f)). Such procedures may include the use of paperless notices, ballots or other communications.

For the purpose of the nomination of Participant Representatives pursuant to this Section 13.3, the following procedures shall apply:

Each Voting Participant shall have one vote in such nomination proceedings (regardless of the amount in the Participant's Account).

Each Voting Participant desiring to serve as a Participant Representative shall submit a nominating petition (in such form as the City Manager (for the initial nomination) or the Board (for all subsequent nominations) may prescribe that contains the signature of at least twenty-five of the Voting Participants

entitled to vote for the nomination of such Participant Representative (i.e., Voting Participants who are or were Firefighters or Police Officers, as the case may be).

Each Voting Participant entitled to vote on the nomination of a Participant Representative shall be provided with a ballot identifying each Voting Participant who is a valid nominee for appointment as a Participant Representative, and a brief (no more than three letter size pages) statement prepared and submitted by each candidate discussing their qualifications and reasons for serving as a Participant Representative.

The ballot shall also include:

Instructions for completing the ballot and information concerning the time and manner the ballot is to be returned to the City Manager (for the initial nomination) or the Board (for all subsequent nominations). If the ballot is to be returned by mail, the ballot shall include a postage paid return envelope addressed to the City Manager (for the initial nomination) or the Board (for all subsequent nominations).

The date by which the Voting Participant's ballot must be postmarked (if mailed) or actually received (if delivered) in order for the Voting Participant's vote to count.

Such other information that the City Manager (for the initial nomination) or the Board (for all subsequent nominations) reasonably believes is necessary to enable the Voting Participant to make an informed vote for the nomination of the Participant Representative.

A Participant Representative who ceases to be a Participant in the Plan shall be deemed to have resigned from the Board on the date he ceases to be a Participant. A Participant Representative may resign from the Board at any time, upon thirty (30) days notice to the Board. Upon the death, resignation or deemed resignation of a Participant Representative, the alternate shall become the Participant Representative until such time as a successor is nominated in accordance with the provisions of this Section 13.3 and appointed to the Board by the City Council.

The Voting Participants at any time may request that the City Council remove a Participant Representative or alternate and may nominate a new Participant Representative or alternate to fill any vacancy among Participant Representatives or alternates. In order to request removal of a Participant Representative or alternate, the Voting Participants shall submit a removal petition to the Board containing the

signatures of at least twenty percent (20%) of the Voting Participants who are entitled to vote for the nomination of the Participant Representative or alternate (i.e., Voting Participants who are or were Firefighters or Police Officers, as the case may be). Such petition shall be in such form and contain such other information as may be reasonably prescribed by the Board. Upon receipt of a valid removal petition, the Board shall conduct a proceeding to determine whether or not to recommend removal (using the procedures for nomination of Participant Representatives and alternates, other than Section 13.3(f)(ii)). For purposes of 13.3(f)(iii), the Participant Representative or alternate who is the subject of the removal petition and the Voting Participants submitting the removal petition shall each have the opportunity to submit a brief (no more than three letter size pages) statement discussing the reasons why the recommendation to remove the Participant Representative or alternate should (or should not) be presented to the City Council.

If the City Manager (for the initial nomination) or the Board (for all subsequent nominations) makes an error in conducting a nomination or removal proceeding with respect to any Participant Representative or alternate, such error shall not affect the nomination or removal (and shall be ignored), unless the City Manager (for the initial nomination) or the Board (for all subsequent nominations) reasonably concludes that the results of the nomination or removal vote would have been different, absent such error.

Any ballot, information or other communication to a Voting Participant shall be sent to the Participant at his last post office address, electronic mail address or other address shown on the Plan's records. Information or communications addressed generally to all Voting Participants shall also be posted in those places generally used for posting Employee communications (i.e., the Employer's intranet site). Except for sending such ballot, information or communication to the last known address shown on the Plan's records and posting general information or communications, neither the City Manager (for the initial nomination) or the Board (for all subsequent nominations) shall not be obliged to take any other action to locate a Voting Participant.

13.4 CONDUCT OF BOARD BUSINESS.

The Board may adopt rules for the conduct of its business.

Proceedings and actions of the Board shall be subject to the Virginia Freedom of Information Act and all other applicable law, and the Board shall take all steps necessary to ensure that it complies with such Act and all applicable law.

The members of the Board shall elect a Chairman and a Secretary from among its members. Neither the Employer Representatives nor the Participant Representatives

shall hold the position of both Chairman and Secretary (e.g., if an Employer Representative is elected to serve as Chairman, the Secretary shall be a Participant Representative). In the event the members of the Board fail to elect a Chairman or Secretary within sixty (60) days, the City Manager may appoint the Chairman or Secretary, as the case may be.

A regular meeting of the Board shall be held each calendar quarter, on a date, and at a reasonable time and place, jointly designated by the Chairman and Secretary or by resolution of the Board from time to time (provided that such date does not fall on a holiday for employees of the Employer). Special meetings of the Board may be called jointly by the Chairman and Secretary, or by a majority of the members of the Board. Meetings of the Board shall take place within the City of Alexandria at a site furnished by the Employer.

Notice of the time and place of every regular, special and reconvened meeting of the Board shall be given to each member and each alternate by personal delivery, by telephone communication, by telephone facsimile transmission, by first class mail, by electronic mail, or by a delivery service providing confirmation of delivery. At least five (5) business days notice shall be given of all regular meetings and at least seventy-two (72) hours notice shall be given of all special or reconvened meetings. The purpose of any meeting of the Board need not be stated in the notice. No notice of the time, place or purpose of any meeting need be given to any member, who, in writing executed and filed with the records of the meeting either before or after the holding thereof, waives such notice or who attends the meeting.

Meetings of the Board shall be presided over by the Chairman or in his absence by the Secretary, or in their absence by a chairman chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

The Board shall keep minutes of its proceedings showing the vote of each member on each question or if absent or failing to vote indicating such fact, and shall keep records of its official actions.

Subsequent to each Board meeting, and as soon as practicable thereafter, each member of the Board (and each alternate) shall be furnished with a copy of the minutes of said meeting (which minutes shall be revised, if necessary, and then adopted and approved by the Board at its next meeting).

Two Employer Representatives and two Participant Representatives (with at least one Firefighter and one Police Participant Representative) shall constitute a quorum for the transaction of any business of the Board. At all meetings of the Board, each Employer and Participant Representative shall have a total of one vote. In the event

that the Participant Representative elected by the Firefighters is absent, the alternate Participant Representative elected by the Firefighters shall, if present, cast one vote. In the event that a police Participant Representative elected by the Police Officers is absent, the alternate representative elected by the Police Officers shall, if present, cast one vote. In the event that an Employer Representative is absent, the alternate Employer Representative shall, if present, cast one vote. Decisions of the Board shall be by a majority of the votes cast.

If quorum is lacking for any meeting, the meeting may be adjourned and reconvened by the chairman of the meeting to a future date, and any business may be transacted at any adjourned meeting which could have been transacted at the meeting as originally called. A quorum must be present at the reconvened meeting in order for the Board to transact any business or take any action.

In the event of a tie vote by the Board, the question or questions in issue may be submitted to the City Manager for resolution upon majority vote of the entire Board. If the Board does not agree to submit the question to the City Manager for resolution, then either the Employer Representatives (by majority vote of the Employer Representatives) or Participant Representatives (by majority vote of the Participant Representatives) may request that an individual be selected to arbitrate and decide the action or question in issue. The location of the arbitration shall be in the City of Alexandria, Virginia and shall be conducted in accordance with its applicable arbitration rules and procedures of the American Arbitration Association or its successor. If the Employer Representatives and the Participant Representatives cannot agree on an individual to serve as the arbitrator within twenty (20) days after arbitration has been invoked, the parties will jointly request that the Chief Judge of the Alexandria Circuit Court designate an individual to serve as arbitrator and decide the action or question. The Employer shall pay the cost of the arbitrator, but Employer Representatives and the Participant Representatives shall each bear their own costs and expenses in connection with the arbitration. The decision of the City Manager or the arbitrator on such issue shall be final and binding on the Board. In the event the Board does not submit the action or issue to the City Manager, or the Employer or Participant Representatives do not invoke arbitration following a tie vote, the action or question shall fail and the status quo shall remain in effect, until such time as the question or action is subsequently addressed by the Board.

The Board may create such subcommittees as it shall deem necessary and appropriate, provided, however, that all proceedings and actions of any subcommittees shall be subject to the Virginia Freedom of Information Act and applicable law, and the Board shall take all steps necessary to ensure that each subcommittee complies with such Act and applicable law.

The Board may authorize one or more of its members or any agent to execute or

deliver any instrument on its behalf and do any and all other things necessary and proper in the exercise of its duties with respect to the Plan.

The Board shall adopt standards of conduct (which conform to the State and Local Government Conflict of Interests Act) and shall require newly elected Employer and Participant Representatives (and alternates) to attend a course of instruction in the responsibilities and duties of a fiduciary and of an employee benefit plan that is sponsored by International Foundation of Employee Benefit Plans (or a similar organization) within a reasonable period of time following their appointment or nomination (unless such member has previously served as a fiduciary of a similar plan and, in connection therewith, has attended a similar course of instruction within a period of five (5) years preceding the member's date of appointment).

All documents, instruments, orders, requests, directions, instructions and other papers shall be executed on behalf of the Board by either its Chairman or Secretary, or by any member or agent of the Board duly authorized to act on the Board's behalf.

The Employer shall provide the Board with assistance in recording and maintaining the minutes of the Board; notifying appropriate persons of the actions of the Board; and providing any other required administrative and clerical assistance.

In carrying out its duties the Board may, from time to time, employ agents and may delegate to them ministerial and limited discretionary duties as it sees fit.

The members of the Board who are Participant Representatives (or alternates of Participant Representatives) will receive compensation for their services as member of the Board (or alternate) in an amount determined by the City Council. Employer Representatives (and the alternate of the Employer Representatives) shall perform their duties with respect to the Plan without receiving any additional compensation in their capacity as Board members.

TWELFTH CHANGE

A new Article XVIII shall be added to the Plan as follows:

"ARTICLE XVIII EGTRRA AMENDMENTS

18.1 EFFECTIVE DATE OF ARTICLE. This Article XVIII is intended to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) and to demonstrate good faith compliance with the provisions of EGTRRA. The provisions of this Article XVIII shall be construed in accordance with EGTRRA and guidance issued thereunder. The provisions of this Article shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

18.2 LIMITATIONS ON CONTRIBUTIONS

Maximum Annual Additions. The total Annual Additions that may be contributed or allocated to a Participant’s Account under the Plan for any Limitation Year shall not exceed the lesser of:

\$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or

100 percent of the Participant’s Compensation, within the meaning of Section 415(c)(3) of the Code, for the Limitation Year.

The Compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

18.3 INCREASE IN COMPENSATION LIMIT. The annual Compensation of each Participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual Compensation means Compensation during the plan year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

18.4 DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS

(a) This Section shall apply to distributions made after December 31, 2001.

(b) Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the Plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state,

political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

- (c) Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions of the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

18.5 ROLLOVERS FROM OTHER PLANS. Effective as of January 1, 2002, the Plan will accept Rollover Contributions and/or direct rollovers of distributions made after December 31, 2001, as follows:

- (a) Direct Rollovers. The Plan will accept a direct rollover of an eligible rollover distribution from:
 - (1) a qualified plan described in Section 401(a) or 403(a) of the Code, including after-tax employee contributions.
 - (2) an annuity contract described in Section 403(b) of the Code, excluding after-tax employee contributions.
 - (3) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
- (b) Rollover Contributions from Other Plans. The Plan will accept contribution from a Participant of an eligible rollover distribution from:
 - (1) a qualified plan described in Section 401(a) or 403(a) of the Code.
 - (2) an annuity contract described in Section 403(b) of the Code.
 - (3) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or

instrumentality of a state or political subdivision of a state.

- (c) Rollover Contributions from IRAs. The Plan will accept a Rollover Contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

18.6 ROLLOVERS DISREGARDED IN INVOLUNTARY CASH-OUTS. With respect to distributions made after December 31, 2001, for any Participant who separated from service after December 31, 2001, for purposes of determining the value of the Participant's Account subject to the involuntary distribution of vested Accrued Benefits of \$5,000 or less, the value of the Participant's nonforfeitable Account balance shall be determined without regard to that portion of the Account balance that is attributable to Rollover Contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the Participant's nonforfeitable Account balance as so determined is \$5,000 or less, the Plan shall immediately distribute the Participant's entire nonforfeitable Account balance.

The City of Alexandria Retirement Income Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2001, and as amended by the foregoing changes is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the Employer has caused this First Amendment to be executed on this _____ day of _____, 2002.

THE CITY OF ALEXANDRIA

By: _____
Phillip G. Sunderland, City Manager

*City of Alexandria, Virginia*MEMORANDUMNOTICE OF PROPOSED AMENDMENTS TO THE CITY OF ALEXANDRIA
RETIREMENT INCOME PLAN FOR FIREFIGHTERS AND POLICE OFFICERS

TO: Participants in the City of Alexandria Retirement Income Plan for
Firefighters and Police Officers

FROM: Henry Howard, Jr. *H. HOWARD*
Director, Personnel Services

DATE: September 16, 2002

RE: Opportunity to Review and Provide Comments Regarding Proposed Plan
Amendments

The City of Alexandria maintains the Retirement Income Plan for Firefighters and Police Officers for the benefit of sworn firefighters and police officers. The City intends to amend the Retirement Income Plan in order to:

- (1) Create a Retirement Board consisting of four City representatives and four participant representatives (two current or former police officers and two current or former firefighters) to administer the plan and oversee the investment of Plan assets;
- (2) Clarify the definition of disability under the Plan; and
- (3) Incorporate changes to the Plan required by the Economic Growth and Tax Relief Reconciliation Act of 2001.

The City also wanted to advise participants that it is forming a workgroup (consisting of City and participant representatives) to study whether it would be feasible for the City to adopt a new defined benefit retirement plan that is similar to the "old" Pension Plan for Firefighters and Police Officers (that was closed in 1979). If such a plan were adopted, existing participants in the Retirement Income Plan would likely be given the choice of remaining in the current Retirement Income Plan or transferring to the new plan. The City anticipates that it will take at least a year to study this issue and reach a conclusion regarding the feasibility of adopting a new plan. Plan participants will be advised of the conclusions reached by the workgroup.

Under the terms of the Retirement Income Plan, the City is required to give participants sixty days advance notice of any material change to the Plan. While City believes that the only material change included in the proposed amendment involves the creation of the Retirement Income Board to administer the Plan and to oversee the investment of Plan assets, the City is providing an opportunity for participants to ask questions and provide the City with comments concerning all of the proposed changes.

The proposed amendment of the Plan will be considered by City Council in December, 2002. The City has set aside the following dates and times for meetings at which staff will explain the proposed amendment and answer any questions:

September 25, 2002 at 3:00 p.m. at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

September 30, 2002 at 8:00 a.m. at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

October 1, 2002 at 3:00 p.m. at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

October 8, 2002 at 8:30 a.m. at the Lee Center (1108 Jefferson Street, Alexandria, Virginia) in the Fire Training Facility

October 9, 2002 at 8:30 a.m. at the Lee Center (1108 Jefferson Street, Alexandria, Virginia) in the Fire Training Facility

October 10, 2002 at 8:30 a.m. at the Lee Center (1108 Jefferson Street, Alexandria, Virginia) in the Fire Training Facility

If you have any questions or comments that you would like to have addressed at the meeting, it would be helpful if they were submitted (in writing or via e-mail) to the Director of Personnel Services, Henry Howard, at least five days prior to the scheduled date of the first meeting, so that the City has time to consider and respond to these questions or comments. Your questions or comments should be sent to:

Henry Howard, Director Personnel Services
City of Alexandria
301 King Street, Alexandria, VA

Your questions or comments may also be e-mailed to Henry Howard at henry.howard@ci.alexandria.va.us.

You are not *required* to submit your questions or comments in advance of the meeting. The City will respond to questions or comments that are not submitted in

advance, but the City may need additional time to respond and may not be able to respond during the meeting.

If you are not able to attend one of the meetings, or have other questions or comments, you can contact Henry Howard or Myla Riggs at (703) 838-4425.

A copy of the proposed amendment is not included with this notice but can be obtained from the Office of Personnel Services by calling Henry Howard or Myla Riggs at (703) 838-4425 or sending an e-mail to henry.howard@ci.alexandria.va.us or myla.riggs@ci.alexandria.va.us.

The proposed changes are summarized as follows:

1. Retirement Income Board. The amendment creates a "Retirement Income Board" to administer the Plan on behalf of the City and to oversee the investment of Plan assets. The Board would take over administration of the Plan as soon as it is constituted (which would likely be in February or March of 2003).
 - a. Composition of Retirement Income Board. The Board will have eight members who are appointed by the City Council; four members of the Board will be nominated by the City Manager; two members will be nominated by Plan participants who are current or former police officers; and the remaining two members will be nominated by Plan participants who are current or former firefighters.

In addition to the four City representatives and four participant representatives, there will be two alternate participant representatives (one current or former police officer and one current or former firefighter) and one alternate City representative.

The four participant representatives will serve for a term of three years and will be nominated by a vote of those participants who are current or former police officers or firefighters. There is no limit on the number of terms a participant representative can serve.

In order to be a participant representative, an individual must be a participant in the Plan (as well as a current or former police officer or firefighter). A participant representative who ceases to be a Plan participant is deemed to have resigned from the Board on the date he or she ceases to be a Plan participant.

City representatives serve for an unlimited term but are automatically deemed to have resigned when they leave the employ of the City.

If the proposed amendment is adopted by the City Council, it is expected that the election for participant representatives to the Board will be held early next year. Details regarding the election will be provided to participants entitled to vote once the amendment is adopted. However, in order to be run for a seat on the Board, a participant who desires to serve as a representative of the police officers must first secure the signature of at least twenty-five Plan participants who are current or former police officers. Similarly, a participant who desires to serve as a representative of the firefighters must first secure the signature of at least twenty-five Plan participants who are current or former firefighters.

Participants can request that the City Council remove a duly elected participant representative to the Board. In order to request removal, the participants must submit a removal petition containing the signatures of at least 20% of the Participants who are entitled to vote for the nomination of the Participant Representative. A special election would then be held, and if a majority of the participants entitled to vote for the representative vote for removal, a removal request would be submitted to the City Council.

The Board will meet at least quarterly and all actions of the Board will be by majority vote. If the Board deadlocks on an issue, it may elect to submit the question to the City Manager for a decision or it may submit the issue to arbitration. (The Board is not *required* to submit a question to the City Manager or request arbitration.) If a question is submitted to arbitration, the City and the participant representatives would each be required to pay their own arbitration expenses.

Participant representatives (and alternates) will receive compensation for their services as a member of the Board in an amount determined by the City Council.

- b. Powers and Duties of the Retirement Income Board. The amendment gives the Board complete authority to act for the City in any matter directly pertaining to the administration and operation of the Plan or the investment of Plan assets.

The Board's administrative responsibilities would include maintaining the qualification of the Plan under the Internal Revenue Code, determining the eligibility of a Participant under this Plan and the Participant's rights under the Plan, reviewing and approving domestic relations orders, and handling Plan distributions. If it so desires, the Board could elect to delegate its administrative responsibilities with respect to the Plan to City personnel.

The Board's oversight of Plan investments would require the Board to monitor and review the investment options made available to Plan participants and to add or replace investment options as appropriate. The Board would also establish reasonable rules and procedures to be followed by participants with respect to the investment of their accounts.

Finally, the Board would have the ability to make recommendations to the City Manager concerning modifications to or clarifications of the Plan or the Firefighters and Police Officers Disability Income Plan. (The Board could also make recommendations to the City Council following consultation with the City Manager.) However, the Board would not have the authority to modify or amend, in any respect, any term or provision of either the Retirement Income Plan or the Firefighters and Police Officers Disability Income Plan. The authority to amend both Plans resides exclusively with the City Council.

- c. Board Staff and Advisors. The Board will not have a separate staff but will use City personnel to assist it in administering the Plan and overseeing the investment of Plan assets. The City Manager and the Board will jointly select the City employee hired to assist the Board with respect to the administration and management of the Retirement Income Plan.

The Board will have the authority and responsibility to retain all advisors and service providers for the Plan (including the recordkeeper for the Plan, which is currently CIGNA).

- d. Expenses of the Board. The City will pay all expenses incurred by the Board in administering the Plan and overseeing the management of Plan assets, but the fees and expenses of the Board that are payable by the City are conditioned on and subject to appropriations by the City Council (as part of the City's normal budget process).
2. Clarification of Definition of Disability. The proposed amendment clarifies that the determination of whether a participant is disabled will be made by reference to the Firefighters and Police Officers Disability Income Plan. This clarification would be effective as of December 31, 2001.
 3. Required Changes to Comply with EGTRRA. The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") made a number of changes to the rules governing qualified retirement plans. The proposed amendment incorporates these changes, which include the following:
 - a. Increase in Plan Limits. EGTRRA increased the amount of City and employee contributions that could be credited to a participant's account to the lesser of 100% of compensation or \$40,000. This change will

permit employees to begin contributing up to 10% of their compensation to the Plan in the form of after-tax contributions. Previously, after-tax contributions were limited to 5% of compensation because the Internal Revenue Code limited that amount that could be credited to a participant's account to 25% of compensation (which only left 5% after subtracting the 20% contribution made by the City).

- b. Increase in Compensation Limit. EGTRRA increases the limitation on compensation that may be recognized by the Plan to \$200,000.
- c. Modification of Rollover Rules. In addition to rolling over a distribution from the Plan to another qualified retirement plan or an IRA, eligible rollover distributions may now be transferred, in a direct rollover, to a tax sheltered annuity or custodial account under Section 403(b) or a eligible deferred compensation plan sponsored by a governmental organization under Section 457(b).
- d. Expanded Rollover Rules for Surviving Spouses. The surviving spouse of a deceased participant may now elect to transfer, in a direct rollover, the participant's account under the Plan, to a qualified retirement plan, a tax sheltered annuity or custodial account under Section 403(b) or a eligible deferred compensation plan sponsored by a governmental organization under Section 457(b) (in addition to a transfer to an IRA, as permitted under present law).
- e. Involuntary cash-out distributions. As soon as the Department of Labor issues regulations, plan sponsors will be required to transfer involuntary cash-out distributions of more than \$1,000 to an IRA of a designated trustee or issuer, unless the participant elects to have the distribution rolled over to a different eligible retirement plan or paid in cash.

Generally, the changes required to comply with EGTRRA will be effective as of January 1, 2002.

RESOLUTION NO. 2050

WHEREAS, the City of Alexandria maintains the City of Alexandria Retirement Income Plan for Firefighters and Police Officers (the "Plan"); and

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the "First Amendment to the City of Alexandria Retirement Income Plan for Firefighters and Police Officers" (the "Plan Amendment") attached hereto; and

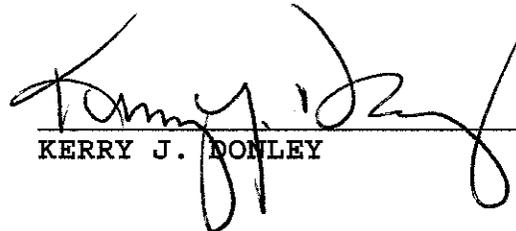
WHEREAS, the Plan, as amended, is intended to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable;

NOW, THEREFORE, BE IT RESOLVED that the Alexandria City Council does hereby recognize, adopt, approve and restate the Plan to incorporate the Plan Amendment attached hereto and incorporated fully herein by reference; and

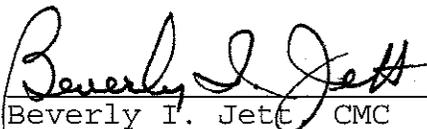
BE IT FURTHER RESOLVED that the City Manager be, and he hereby is, authorized and directed to make on behalf of the City of Alexandria any other changes to the Plan as may be requested by the Internal Revenue Service, or, based on the advice of counsel, as may be necessary or desirable for the Plan to meet or continue to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable; and

BE IT FURTHER RESOLVED that this Resolution shall be effective immediately; provided, however, that the amendments hereby approved shall be effective as stated in the Plan Amendment.

ADOPTED: December 10, 2002


KERRY J. DONLEY MAYOR

ATTEST:


Beverly I. Jett CMC City Clerk

**FIRST AMENDMENT TO
THE CITY OF ALEXANDRIA RETIREMENT INCOME PLAN FOR FIREFIGHTERS
AND POLICE OFFICERS**

Pursuant to the powers of amendment reserved under Section 15.1 of the City of Alexandria Retirement Income Plan for Firefighters and Police Officers (the "Plan"), as amended and restated effective as of December 31, 2001, said Plan shall be and the same is hereby further amended by the City of Alexandria (the "Employer") effective as of January 1, 2003, or such earlier dates as may be specified herein, as follows:

FIRST CHANGE

Section 1.3 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

- 1.3 ADMINISTRATOR. The term Administrator means the Board or the Person or Persons designated by the Board to serve as Administrator in accordance with Section 12.2.

SECOND CHANGE

The following new Section 1.5A shall be inserted as follows:

- 1.5A BOARD. The Retirement Income Board that is established under Section 13.1 to administer the Plan and to manage the assets of the Plan.

THIRD CHANGE

Section 1.8 shall be deleted in its entirety and the following shall be substituted in lieu thereof effective as of December 31, 2001:

- 1.8 DISABILITY. The term Disability means a Participant who has been determined to be disabled under the Firefighters and Police Officers Disability Income Plan.

FOURTH CHANGE

The following new Section 1.16A and B shall be inserted as follows:

- 1.16A FUNDING AGENT. The term Funding Agent refers to the Insurance Company or the trustee or custodian appointed to hold assets of the Plan.

1.16B FUNDING VEHICLE. The term Funding Vehicle refers to an Annuity Contract or a trust or custodial account created to hold assets of the Plan.

FIFTH CHANGE

Section 1.19 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

1.19 INVESTMENT FUNDS. The term Investment Funds refers to the investment media from among which each Participant may direct the investment of his Participant Account. Such term includes one or more Variable Annuity Contracts, one or more pooled separate accounts maintained by an Insurance Company under an Annuity Contract, and shares of redeemable capital stock of one or more regulated investment companies, as defined in Section 851(a) of the Internal Revenue Code.

SIXTH CHANGE

Section 1.24 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

1.24 PARTICIPANT. The term Participant means any Employee of the Employer, and any former Employee who has an undistributed Account under the Plan. The term Participant shall include an Active Participant and an Inactive Participant. In addition, where appropriate according to the context of the Plan, the term Participant shall also include a Beneficiary or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee.

SEVENTH CHANGE

The following new Section 1.39 shall be inserted as follows:

1.39 VOTING PARTICIPANT. The term Voting Participant means a Participant whose Participant Account has been credited with Employer Contributions that are attributable to such Participant's service as a covered Firefighter or Police Officer. The term does not include a Participant who may be a current or former Firefighter or Police Officer, but whose Participant Account has not been credited with Employer Contributions that are attributable to such Participant's service as a covered Firefighter or Police Officer (e.g. a Participant whose Participant's Account is attributable solely to his status as a Beneficiary or an alternate payee under a domestic relations order).

EIGHTH CHANGE

Section 5.3, 5.4 and 5.5 shall be deleted in their entirety and the following shall be substituted in lieu

thereof:

5.3 PARTICIPANT DIRECTED INVESTMENT OF ACCOUNTS.

- (a) Subject to such limitations as may from time to time be required by law, imposed by the Board or contained elsewhere in the Plan, and subject to such operating rules and procedures as may be imposed from time to time by the Board (or the Funding Agent), each Participant (including for this purpose former Participants with a deferred vested benefit, Beneficiaries and/or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee) shall have the right to direct the investment of his Participant Account in accordance with the following:
- (b) The Board shall designate the Investment Funds from among which each Participant may direct the investment of his Participant Account. The Board may, in its absolute discretion change, modify or limit such Investment Funds and may establish uniform rules and procedures to be followed with respect to the investment of Participants' Accounts in such Investment Funds.

The Board shall determine the manner, period, and frequency of investment elections (e.g., daily, weekly, or monthly). Different terms and conditions may be specified for different Investment Funds (e.g., monthly elections for one Investment Fund and daily elections for another Investment Fund). Any term or condition imposed by the Board may apply to an entire Participant's Account or may be applied separately to different subaccounts, different Investment Funds or to different types of contributions (e.g., future contributions versus the current balance of a Participant's Account). Except as the Board shall otherwise determine, any initial or subsequent investment designation shall be in writing, on a form supplied by and filed with the Board (or the Funding Agent), and shall be effective on such date as may be specified by the Board (or the Funding Agent). The Board may provide for telephone or other electronic investment designations to the extent that such facilities are made available by the Funding Agent, and may establish (and thereafter change) a limit on the number of designations that may be made by any Participant during a specified period.

All contributions and other amounts added to a Participant's Account (except for investment earnings) shall be allocated among the separate Investment Funds in accordance with the then effective investment designation. Except as the Board shall otherwise determine, any distributions shall be taken proportionately from each separate Investment Fund in which the Participant's Account is invested at the time of the distribution. As of the effective date of any new investment designation, the entire balance of the Participant's Account at that date shall be reallocated among the designated investment media according to the percentages specified in the investment

designations (unless the Board permits, and the Participant has designated, different allocations as between existing balances and future contributions), but no reallocations of the Participant's Account are to be made merely to adjust for disproportionate investment changes among such funds (other than in response to a subsequent investment designation filed with respect to the Participant's Account).

In the event the Board (or the Funding Agent) receives an initial or revised investment designation which it deems to be incomplete, unclear, not in accordance with procedures established pursuant to this Section or otherwise improper, the Participant's investment designation then in effect shall remain in effect (or, in the case of a deficiency in an initial designation, the Participant shall be deemed to have filed no designation) until a complete, clear investment designation has been filed that is in accord with the rules and procedures established by the Board (or the Funding Agent) and has become effective.

It is intended that each Participant be required to direct the investment of his Participant's Account to the extent set forth in this Section. In the event that the Board (or the Funding Agent) possesses at any time instructions as to the investment of less than all of a Participant's Account, the Participant shall be deemed to have designated that the non-directed portion of his Account be invested in the Guaranteed Long Term Account (or if the Guaranteed Long Term Account is not available, then in the separate Investment Fund which most closely resembles a money market or stable asset fund). To the extent that the Board finds it to be administratively appropriate to hold a portion of the assets of the Plan out of the operation of this Section, or to the extent that the operation of this Section is suspended or terminated with respect to any portion of the assets of the Plan as aforesaid, then the Board shall direct the Funding Agent with respect to the investment.

The Board may determine at any time to vary the rules provided above to accord with the requirements of any Investment Fund, for ease in administration, or for any other reason. In such event, the Board shall promptly notify Participants of any changes which affect the manner in which Participant Accounts are invested.

Neither the Board, the Administrator, the Employer, the Funding Agent nor any other person who may be deemed a fiduciary hereunder shall have any responsibility to determine the appropriateness of any individual Participant's investment direction.

- 5.4 ACCOUNT STATEMENTS. Following the close of each calendar quarter (or more frequently, as directed by the Board), the Funding Agent shall furnish the Board, the Administrator and each Participant with a written report of the value of each Investment Fund in which the Participant's Account is invested.

NINTH CHANGE

The second paragraph of Section 6.3 shall be deleted in its entirety and the following shall be substituted in lieu thereof

Notwithstanding the foregoing paragraph, if the value of the Participant's Account available for the purchase of a retirement annuity is less than five thousand dollars (\$5,000), the distribution shall be in the form of cash.

TENTH CHANGE

Article XII shall be deleted in its entirety and the following shall be substituted in lieu thereof:

ARTICLE XII

ADMINISTRATION OF THE PLAN AND MANAGEMENT OF PLAN ASSETS

- 12.1 **ADMINISTRATION OF THE PLAN.** The Plan shall be operated and administered on behalf of the Employer by the Administrator, which shall have the powers and duties set forth in Section 12.4.
- 12.2 **MANAGEMENT OF PLAN ASSETS.** The assets of the Plan shall be managed by the Board, which shall have the additional powers and duties set forth in Section 12.5. The Board may also make recommendations to the City Manager or the City Council concerning modifications to or clarifications of the Plan or the Firefighters and Police Officers Disability Income Plan.
- 12.3 **ADMINISTRATOR.** In the absence of any designation to the contrary by the Board, the Board shall serve as the Administrator.

The Board may designate and appoint one or more Persons [who are employed by the Employer] to act as Administrator. Except to the extent that the Board has retained any power or authority, or allocated duties and responsibilities to another fiduciary, the Person or Persons designated as the Administrator by the Board shall have full power and authority to administer and operate the Plan in accordance with its terms and in particular the authority contained in Section 12.4, and, in acting pursuant thereto, shall have full power and authority to deal with all persons in any matter directly connected with the operation and administration of the Plan.

If more than one Person is designated as the Administrator by the Board, the committee thus formed shall be known as the Administrative Committee and all references in the Plan to the Administrator shall be deemed to apply to the Administrative Committee.

The Administrator (or each member of the Administrative Committee) shall signify in

writing his acceptance of his responsibility as Administrator.

Any Person or Persons designated by the Board as Administrator (or a member of the Administrative Committee) shall:

have the right to resign at any time by giving notice in writing, mailed or delivered to the Board;

be deemed to have resigned as an Administrator (or a member of the Administrative Committee) upon his termination of employment with the City; and

shall be subject to removal by the Board at any time, with or without cause.

Upon the death, resignation or removal of an Administrator, the Board may appoint a successor. The appointment of a successor shall be made by the Board in writing, and the successor shall have all of the rights and privileges and all of the duties and obligations of his predecessor.

If the Board has created an Administrative Committee to serve as the Administrator, then the Board shall designate a Chairman and Secretary from among the members of the Administrative Committee. The Administrative Committee may adopt reasonable rules for the conduct of its business. A majority of the members then serving as members of the Administrative Committee shall constitute a quorum for the transaction of business. All action taken by the Administrative Committee shall be by vote of a majority of those present at such meeting and entitled to vote. Actions may be taken without a meeting upon written consent signed by at least a majority of the members of the Administrative Committee. All documents, instruments, orders, requests, directions, instructions and other papers shall be executed on behalf of the Administrative Committee by either its Chairman or Secretary, or by any member or agent of the Administrative Committee duly authorized to act on the Committee's behalf.

In carrying out its duties the Administrative Committee may, from time to time, employ agents and may delegate to them ministerial and limited discretionary duties as it sees fit.

The Administrative Committee (or the Person) appointed by the Board as Administrator shall provide the Board, within fifteen (15) days after the close of each month, with a written summary of all actions taken during the month.

- 12.4 DUTIES AND RESPONSIBILITY OF ADMINISTRATOR. The Administrator shall perform all such duties as are necessary to administer and operate the Plan in accordance with the terms thereof.

Except as the Employer, acting through the City Council, shall otherwise expressly

determine, the Administrator shall have full authority to act for the Employer before all persons in any matter directly pertaining to the administration and operation of the Plan, including, without limitation, the power:

To administer the Plan in accordance with the provisions of the Plan and applicable law.

To make and to change from time to time and to enforce such rules and regulations, consistent with the provisions of this Plan, as may be necessary or desirable for the carrying out of its duties, and for the efficient administration of the Plan.

Finally and conclusively to determine, according to the provisions set forth in this Plan, the eligibility of a Participant under this Plan and, if eligible, the Participant's rights hereunder.

To exercise its sole discretionary right and authority to interpret and construe terms of this Plan and any rules and regulations that the Administrator might make.

To retain such agents, actuaries, consultants, accountants, attorneys, and service providers as may be necessary for the efficient administration of the Plan.

To allocate and delegate responsibilities among members of the Board or Administrative Committee, and to designate persons other than the Administrator to carry out administrative responsibilities under the Plan.

To compromise, settle, or release claims or demands in favor of or against the Plan or the Administrator on such terms as the Administrator may deem reasonable and prudent.

To recommend to the City Manager changes to the Plan that are necessary or desirable to maintain the qualification of the Plan under Section 401(a) of the Internal Revenue Code.

To request determination letters from the Secretary of the Treasury that the Plan meets the requirements for qualification under Section 401 of the Internal Revenue Code and to take the necessary steps to notify the appropriate interested parties whenever an application is made to the Secretary of the Treasury for a determination letter in accordance with section 7476 of the Internal Revenue Code.

To do all acts necessary to implement any action or decision of the Board with respect to the management of the assets of the Plan.

To do all acts, whether or not expressly authorized herein, which the Administrator

deems necessary to accomplish the general purposes of this Plan, provided, however, that the Administrator shall have no authority to take any action with respect to the management of the assets of the Plan, other than those actions which are necessary to implement any action or decision of the Board.

Notwithstanding anything herein to the contrary, the Administrator shall not have the power to amend or terminate the Plan, to determine Employer contributions, or to affect the employer-Employee relationship between the Employer and any Employee, all of which powers are reserved to the Employer.

12.5 **ADDITIONAL DUTIES AND RESPONSIBILITY OF THE BOARD.** The Board shall serve as the fiduciary of the Plan in connection with the management of the Plan's assets.

Except as the Employer, acting through the City Council, shall otherwise expressly determine, the Board shall have full authority to act for the Employer before all persons in any matter directly pertaining to the management of the assets of the Plan, including, without limitation, the power:

To determine, select, monitor, review and alter as appropriate the Investment Funds from among which each Participant may direct the investment of his Participant Account in accordance with the provisions of Article V, and to take all action necessary to perform such function.

To establish reasonable rules and procedures to be followed with respect to the investment of Participants' Accounts, including the use of paperless notices, elections, consents, authorizations, instructions, directions, designations, requests or communications.

To determine the manner, period, and frequency of investment elections by Participants under Article V.

If deemed appropriate by the Board, to suspend or terminate the right of Participants to direct the investment of all or any portion of their Account (and in such event to direct the Funding Agent with respect to the investment of such Participant Accounts).

To add or terminate any Annuity Contract as an Investment Fund or funding vehicle under the Plan.

To establish a trust or custodial account as a Funding Vehicle (in addition to, or in lieu of an Annuity Contract).

To provide investment education (but not investment advice) to Plan Participants through independent service providers acting solely in the interests of Plan

Participants.

To appoint and retain any trustees, custodians, investment managers, investment advisors, investment planners, record-keepers, counsel and other vendors for the Plan as it deems necessary and appropriate for the management and operation of the assets of the Plan.

To approve all standard form benefit statements, and all other standard or special written communications from the Plan to Participants with respect to their Accounts (or the investment thereof), including but not limited to information and communications furnished to Participants by the Employer that directly relates to or describes the investment of assets of the Plan, or provides information to Participants respecting the value of their Accounts.

To establish reasonable rules and procedures to be followed with respect to the nomination (and removal) of Participant Representatives.

To consult with the Employer, Administrator or City Manager respecting the terms of the Plan and to make recommendations concerning modifications to or clarifications of the Plan or the Firefighters and Police Officers Disability Income Plan (including making recommendations to the City Council following consultation with the City Manager); provided, however, that the Board shall have no discretionary authority acting itself to modify or amend, in any respect, any term or provision of such Plans, which authority resides exclusively with the City Council.

To do all acts, whether or not expressly authorized herein, which the Board deems necessary or appropriate in connection with the management of the assets of the Plan.

Notwithstanding anything herein to the contrary, the Board shall not have the power to amend or terminate the Plan, to determine Employer contributions, or to affect the employer-Employee relationship between the Employer and any Employee, all of which powers are reserved to the Employer.

12.6 RECORDS AND REPORTS.

The Administrator and the Board shall maintain such records, and compile such data, as is necessary for the proper administration and operation of the Plan and the proper management of the assets of the Plan. The Administrator and the Board shall maintain adequate records of their actions and proceedings in administering this Plan and shall file all reports and take all other actions necessary or appropriate in order to comply with applicable law.

An annual audit of the Plan shall be made at the end of each fiscal year of the Plan by a competent, impartial independent certified public accountant selected by the

Board.

The Board shall furnish the City Manager or his designee a copy of all monthly financial or investment reports, the annual audit of the Plan, and any financial reports or documents provided by any service provider to the Plan .

The Employer shall promptly furnish all necessary information to the Administrator and the Board to permit them to perform their respective duties under the Plan. The Administrator and the Board shall be entitled to rely upon the accuracy and completeness of all information furnished to them by the Employer, unless they know or should have known that such information is erroneous.

12.7 EXPENSES OF ADMINISTRATOR AND BOARD. Any expenses incurred by the Administrator or the Board in connection with the administration of the Plan shall be paid by the Employer, including but not limited to those associated with the retention of attorneys, accountants, an actuaries, or other service providers; provided, however, that any fees and expenses of the Administrator or the Board that are payable by the Employer shall be conditioned on and subject to appropriations by the City Council.

12.8 PAPERLESS COMMUNICATIONS. Notwithstanding anything contained herein to the contrary, the Administrator or the Board from time to time may establish uniform procedures whereby with respect to any or all instances herein where a writing is required, including but not limited to any required written notice, election, consent, authorization, instruction, direction, designation, request or claim, communication may be made by any other means designated by the Administrator or the Board, including by paperless communication, and such alternative communication shall be deemed to constitute a writing to the extent permitted by applicable law, provided that such alternative communication is carried out in accordance with such procedures in effect at such time.

ELEVENTH CHANGE

Articles XIII through XVII shall be redesignated as Articles XIV through XVIII respectively, and the following new Article XIII shall be inserted:

ARTICLE XIII RETIREMENT INCOME BOARD

13.1 RETIREMENT INCOME BOARD.

The Retirement Income Board shall consist of eight members who are nominated by the City Manager and Voting Participants in accordance with this Article and appointed by the City Council.

Four of the members of the Board shall be nominated by the City Manager pursuant to Section 13.2 (the "Employer Representatives"), and four of the members of the Board shall be nominated by the Voting Participants pursuant to Section 13.3 (the "Participant Representatives"). In the event the City Council does not appoint an Employer Representative or Participant Representative that has been nominated in accordance with this Article, the City Manager or Voting Participants, as the case may be, shall select and present another nominee in accordance with the provisions of this Article.

In addition to the four Employer Representatives and four Participant Representatives, there shall be two alternate Participant Representatives and one alternate Employer Representative appointed by the City Council. The two alternates Participant Representatives shall be nominated in the same manner as the Participant Representatives (with one of the Participant alternates nominated by Voting Participants who are or were Firefighters, and the other Participant alternate nominated by Voting Participants who are or were Police Officers). The alternate Employer Representative shall be nominated by the City Manager. The designated alternates may attend meetings of the Board, but unless acting in place of an absent member of the Board in accordance with Section 13.4, shall not be entitled to participate in any meeting of the Board or vote on any matter presented to the Board for consideration.

Each member of the Board and each alternate shall signify in writing his acceptance of his appointment as a member or alternate of the Board. No person shall act as a member of the Board or as an alternate until he has accepted and acknowledged his appointment.

13.2 EMPLOYER REPRESENTATIVES.

The City Manager shall nominate the four Employer Representatives for appointment to the Board. The Employer Representatives appointed by the City Council shall serve as members of the Board until removed or until their death or resignation.

Each Employer Representative shall have the right to resign as a member of the Board at any time by giving notice in writing, mailed or delivered to the City Manager and the remaining members of the Board. An Employer Representative who was an employee of the Employer at the time of his appointment shall be deemed to have resigned from the Board upon his termination of employment with the Employer. The City Manager at any time may, in his discretion, request that the City Council remove any Employer Representative with or without cause. Upon the death, resignation or removal of an Employer Representative, the City Manager shall nominate a successor. The appointment of a successor shall be made by the City Council, and the successor shall have all of the rights and privileges and all of the

duties and obligations of his predecessor.

13.3 PARTICIPANT REPRESENTATIVES.

The Voting Participants shall nominate each Participant Representative (by secret ballot).

Two out of the four Participant Representatives shall be Voting Participants who are currently or previously employed by the Employer as Firefighters, and shall be nominated for appointment to the Board based on the vote of all Voting Participants who are or were Firefighters. The remaining two Participant Representatives shall be Voting Participants who are currently or previously employed by the Employer as Police Officers, and shall be nominated for appointment to the Board based on the vote of all Voting Participants who are or were Police Officers.

Each Participant Representative, and alternate, shall serve a three-year term (or until their successor is duly appointed and has accepted his position on the Board). Each Participant Representative may be re-nominated and re-appointed for any number of additional three-year terms.

The City Manager (or his designee), in consultation with employee organizations in the Police and Fire Departments, shall conduct the initial nomination of Participant Representatives, and thereafter such nominations shall be conducted by the Board. In any nomination proceeding conducted by the Board, no Participant Representative who is seeking to be nominated for re-appointment to the Board shall participate in conduct of the nomination proceedings by the Board.

The City Manager or his designee (for the initial nomination) or the Board (for all subsequent nominations) shall establish reasonable rules and procedures to be followed with respect to the conduct of the nomination of Participant Representatives (consistent with the provisions of Section 13.3(f)). Such procedures may include the use of paperless notices, ballots or other communications.

For the purpose of the nomination of Participant Representatives pursuant to this Section 13.3, the following procedures shall apply:

Each Voting Participant shall have one vote in such nomination proceedings (regardless of the amount in the Participant's Account).

Each Voting Participant desiring to serve as a Participant Representative shall submit a nominating petition (in such form as the City Manager (for the initial nomination) or the Board (for all subsequent nominations) may prescribe that contains the signature of at least twenty-five of the Voting Participants

entitled to vote for the nomination of such Participant Representative (i.e., Voting Participants who are or were Firefighters or Police Officers, as the case may be).

Each Voting Participant entitled to vote on the nomination of a Participant Representative shall be provided with a ballot identifying each Voting Participant who is a valid nominee for appointment as a Participant Representative, and a brief (no more than three letter size pages) statement prepared and submitted by each candidate discussing their qualifications and reasons for serving as a Participant Representative.

The ballot shall also include:

Instructions for completing the ballot and information concerning the time and manner the ballot is to be returned to the City Manager (for the initial nomination) or the Board (for all subsequent nominations). If the ballot is to be returned by mail, the ballot shall include a postage paid return envelope addressed to the City Manager (for the initial nomination) or the Board (for all subsequent nominations).

The date by which the Voting Participant's ballot must be postmarked (if mailed) or actually received (if delivered) in order for the Voting Participant's vote to count.

Such other information that the City Manager (for the initial nomination) or the Board (for all subsequent nominations) reasonably believes is necessary to enable the Voting Participant to make an informed vote for the nomination of the Participant Representative.

A Participant Representative who ceases to be a Participant in the Plan shall be deemed to have resigned from the Board on the date he ceases to be a Participant. A Participant Representative may resign from the Board at any time, upon thirty (30) days notice to the Board. Upon the death, resignation or deemed resignation of a Participant Representative, the alternate shall become the Participant Representative until such time as a successor is nominated in accordance with the provisions of this Section 13.3 and appointed to the Board by the City Council.

The Voting Participants at any time may request that the City Council remove a Participant Representative or alternate and may nominate a new Participant Representative or alternate to fill any vacancy among Participant Representatives or alternates. In order to request removal of a Participant Representative or alternate, the Voting Participants shall submit a removal petition to the Board containing the

signatures of at least twenty percent (20%) of the Voting Participants who are entitled to vote for the nomination of the Participant Representative or alternate (i.e., Voting Participants who are or were Firefighters or Police Officers, as the case may be). Such petition shall be in such form and contain such other information as may be reasonably prescribed by the Board. Upon receipt of a valid removal petition, the Board shall conduct a proceeding to determine whether or not to recommend removal (using the procedures for nomination of Participant Representatives and alternates, other than Section 13.3(f)(ii)). For purposes of 13.3(f)(iii), the Participant Representative or alternate who is the subject of the removal petition and the Voting Participants submitting the removal petition shall each have the opportunity to submit a brief (no more than three letter size pages) statement discussing the reasons why the recommendation to remove the Participant Representative or alternate should (or should not) be presented to the City Council.

If the City Manager (for the initial nomination) or the Board (for all subsequent nominations) makes an error in conducting a nomination or removal proceeding with respect to any Participant Representative or alternate, such error shall not affect the nomination or removal (and shall be ignored), unless the City Manager (for the initial nomination) or the Board (for all subsequent nominations) reasonably concludes that the results of the nomination or removal vote would have been different, absent such error.

Any ballot, information or other communication to a Voting Participant shall be sent to the Participant at his last post office address, electronic mail address or other address shown on the Plan's records. Information or communications addressed generally to all Voting Participants shall also be posted in those places generally used for posting Employee communications (i.e., the Employer's intranet site). Except for sending such ballot, information or communication to the last known address shown on the Plan's records and posting general information or communications, neither the City Manager (for the initial nomination) or the Board (for all subsequent nominations) shall not be obliged to take any other action to locate a Voting Participant.

13.4 CONDUCT OF BOARD BUSINESS.

The Board may adopt rules for the conduct of its business.

Proceedings and actions of the Board shall be subject to the Virginia Freedom of Information Act and all other applicable law, and the Board shall take all steps necessary to ensure that it complies with such Act and all applicable law.

The members of the Board shall elect a Chairman and a Secretary from among its members. Neither the Employer Representatives nor the Participant Representatives

shall hold the position of both Chairman and Secretary (e.g., if an Employer Representative is elected to serve as Chairman, the Secretary shall be a Participant Representative). In the event the members of the Board fail to elect a Chairman or Secretary within sixty (60) days, the City Manager may appoint the Chairman or Secretary, as the case may be.

A regular meeting of the Board shall be held each calendar quarter, on a date, and at a reasonable time and place, jointly designated by the Chairman and Secretary or by resolution of the Board from time to time (provided that such date does not fall on a holiday for employees of the Employer). Special meetings of the Board may be called jointly by the Chairman and Secretary, or by a majority of the members of the Board. Meetings of the Board shall take place within the City of Alexandria at a site furnished by the Employer.

Notice of the time and place of every regular, special and reconvened meeting of the Board shall be given to each member and each alternate by personal delivery, by telephone communication, by telephone facsimile transmission, by first class mail, by electronic mail, or by a delivery service providing confirmation of delivery. At least five (5) business days notice shall be given of all regular meetings and at least seventy-two (72) hours notice shall be given of all special or reconvened meetings. The purpose of any meeting of the Board need not be stated in the notice. No notice of the time, place or purpose of any meeting need be given to any member, who, in writing executed and filed with the records of the meeting either before or after the holding thereof, waives such notice or who attends the meeting.

Meetings of the Board shall be presided over by the Chairman or in his absence by the Secretary, or in their absence by a chairman chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

The Board shall keep minutes of its proceedings showing the vote of each member on each question or if absent or failing to vote indicating such fact, and shall keep records of its official actions.

Subsequent to each Board meeting, and as soon as practicable thereafter, each member of the Board (and each alternate) shall be furnished with a copy of the minutes of said meeting (which minutes shall be revised, if necessary, and then adopted and approved by the Board at its next meeting).

Two Employer Representatives and two Participant Representatives (with at least one Firefighter and one Police Participant Representative) shall constitute a quorum for the transaction of any business of the Board. At all meetings of the Board, each Employer and Participant Representative shall have a total of one vote. In the event

that the Participant Representative elected by the Firefighters is absent, the alternate Participant Representative elected by the Firefighters shall, if present, cast one vote. In the event that a police Participant Representative elected by the Police Officers is absent, the alternate representative elected by the Police Officers shall, if present, cast one vote. In the event that an Employer Representative is absent, the alternate Employer Representative shall, if present, cast one vote. Decisions of the Board shall be by a majority of the votes cast.

If quorum is lacking for any meeting, the meeting may be adjourned and reconvened by the chairman of the meeting to a future date, and any business may be transacted at any adjourned meeting which could have been transacted at the meeting as originally called. A quorum must be present at the reconvened meeting in order for the Board to transact any business or take any action.

In the event of a tie vote by the Board, the question or questions in issue may be submitted to the City Manager for resolution upon majority vote of the entire Board. If the Board does not agree to submit the question to the City Manager for resolution, then either the Employer Representatives (by majority vote of the Employer Representatives) or Participant Representatives (by majority vote of the Participant Representatives) may request that an individual be selected to arbitrate and decide the action or question in issue. The location of the arbitration shall be in the City of Alexandria, Virginia and shall be conducted in accordance with its applicable arbitration rules and procedures of the American Arbitration Association or its successor. If the Employer Representatives and the Participant Representatives cannot agree on an individual to serve as the arbitrator with twenty (20) days after arbitration has been invoked, the parties will jointly request that the Chief Judge of the Alexandria Circuit Court designate an individual to serve as arbitrator and decide the action or question. The Employer shall pay the cost of the arbitrator, but Employer Representatives and the Participant Representatives shall each bear their own costs and expenses in connection with the arbitration. The decision of the City Manager or the arbitrator on such issue shall be final and binding on the Board. In the event the Board does not submit the action or issue to the City Manager, or the Employer or Participant Representatives do not invoke arbitration following a tie vote, the action or question shall fail and the status quo shall remain in effect, until such time as the question or action is subsequently addressed by the Board.

The Board may create such subcommittees as it shall deem necessary and appropriate, provided, however, that all proceedings and actions of any subcommittees shall be subject to the Virginia Freedom of Information Act and applicable law, and the Board shall take all steps necessary to ensure that each subcommittee complies with such Act and applicable law.

The Board may authorize one or more of its number or any agent to execute or

deliver any instrument on its behalf and do any and all other things necessary and proper in the exercise of its duties with respect to the Plan.

The Board shall adopt standards of conduct (which conform to the State and Local Government Conflict of Interests Act) and shall require newly elected Employer and Participant Representatives (and alternates) to attend a course of instruction in the responsibilities and duties of a fiduciary and of an employee benefit plan that is sponsored by International Foundation of Employee Benefit Plans (or a similar organization) within a reasonable period of time following their appointment or nomination (unless such member has previously served as a fiduciary of a similar plan and, in connection therewith, has attended a similar course of instruction within a period of five (5) years preceding the member's date of appointment).

All documents, instruments, orders, requests, directions, instructions and other papers shall be executed on behalf of the Board by either its Chairman or Secretary, or by any member or agent of the Board duly authorized to act on the Board's behalf.

The Employer shall provide the Board with assistance in recording and maintaining the minutes of the Board; notifying appropriate persons of the actions of the Board; and providing any other required administrative and clerical assistance.

In carrying out its duties the Board may, from time to time, employ agents and may delegate to them ministerial and limited discretionary duties as it sees fit.

The members of the Board who are Participant Representatives (or alternates of Participant Representatives) will receive compensation for their services as member of the Board (or alternate) in an amount determined by the City Council. Employer Representatives (and the alternate of the Employer Representatives) shall perform their duties with respect to the Plan without receiving any additional compensation in their capacity as Board members.

TWELFTH CHANGE

A new Article XVIII shall be added to the Plan as follows:

"ARTICLE XVIII EGTRRA AMENDMENTS

18.1 EFFECTIVE DATE OF ARTICLE. This Article XVIII is intended to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) and to demonstrate good faith compliance with the provisions of EGTRRA. The provisions of this Article XVIII shall be construed in accordance with EGTRRA and guidance issued thereunder. The provisions of this Article shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

18.2 LIMITATIONS ON CONTRIBUTIONS

Maximum Annual Additions. The total Annual Additions that may be contributed or allocated to a Participant’s Account under the Plan for any Limitation Year shall not exceed the lesser of:

\$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or

100 percent of the Participant’s Compensation, within the meaning of Section 415(c)(3) of the Code, for the Limitation Year.

The Compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

18.3 INCREASE IN COMPENSATION LIMIT. The annual Compensation of each Participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual Compensation means Compensation during the plan year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

18.4 DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS

- (a) This Section shall apply to distributions made after December 31, 2001.
- (b) Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the Plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state,

political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

- (c) Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions of the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

18.5 ROLLOVERS FROM OTHER PLANS. Effective as of January 1, 2002, the Plan will accept Rollover Contributions and/or direct rollovers of distributions made after December 31, 2001, as follows:

- (a) Direct Rollovers. The Plan will accept a direct rollover of an eligible rollover distribution from:
 - (1) a qualified plan described in Section 401(a) or 403(a) of the Code, including after-tax employee contributions.
 - (2) an annuity contract described in Section 403(b) of the Code, excluding after-tax employee contributions.
 - (3) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
- (b) Rollover Contributions from Other Plans. The Plan will accept contribution from a Participant of an eligible rollover distribution from:
 - (1) a qualified plan described in Section 401(a) or 403(a) of the Code.
 - (2) an annuity contract described in Section 403(b) of the Code.
 - (3) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or

instrumentality of a state or political subdivision of a state.

- (c) Rollover Contributions from IRAs. The Plan will accept a Rollover Contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

18.6 ROLLOVERS DISREGARDED IN INVOLUNTARY CASH-OUTS. With respect to distributions made after December 31, 2001, for any Participant who separated from service after December 31, 2001, for purposes of determining the value of the Participant's Account subject to the involuntary distribution of vested Accrued Benefits of \$5,000 or less, the value of the Participant's nonforfeitable Account balance shall be determined without regard to that portion of the Account balance that is attributable to Rollover Contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the Participant's nonforfeitable Account balance as so determined is \$5,000 or less, the Plan shall immediately distribute the Participant's entire nonforfeitable Account balance.

The City of Alexandria Retirement Income Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2001, and as amended by the foregoing changes is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the Employer has caused this First Amendment to be executed on this _____ day of _____, 2002.

THE CITY OF ALEXANDRIA

By: _____
Phillip G. Sunderland, City Manager